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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,788	06/15/2001	James K. Hawley	M 6675 MANCO	9982

7590

04/14/2004

Stephen D. Harper
Law Department
Suite 200
2500 Renaissance Blvd.
Gulph Mills, PA 19406

EXAMINER

EGAN, BRIAN P

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,788

Applicant(s)

HAWLEY ET AL.

Examiner

Brian P. Egan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 17 is objected to for the phrase "and the first surface life shelf liner." The Examiner suggests deleting "life" and inserting the words "of the" to facilitate clarity. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 8-10, 12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al. (#6,238,762) in view of Aoki et al. (#3,808,091).

Friedland et al. teach a synthetic shelf liner (see Abstract) comprising a sheet of synthetic film (Fig. 4, #32) having on a first side a layer comprising a silicone polymeric material (Fig. 4, #37) and having on a second side a layer of repositionable adhesive (Fig. 4, #34). The synthetic film layer comprises a polyolefin or a copolyolefin and may be copolypropylene (Col.3, lines 46-49). Although Friedland et al. do not explicitly state that the synthetic film layer is a synthetic paper, it is notoriously well known in the art that polyethylene, polypropylene, and copolymers thereof, are used to form synthetic paper as evidenced by Aoki et al. (Col. 3, lines 14-20). The repositionable adhesive comprises a pressure sensitive acrylic adhesive (Col. 4, lines 35-42). The synthetic shelf liner is applied to a shelf surface (Col. 2, lines 6-13 and 44-46) – shelf

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surfaces implicitly being horizontal. The synthetic shelf liner is in the form of a roll and does not contain a release sheet to prevent contact between the adhesive and the first surface of the shelf liner (Col. 4, lines 52-56; Col. 5, lines 58-64).

4. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al. ('762) in view of Aoki et al. ('091), and further in view of Shepherd (#6,025,058).

Friedland et al. and Aoki et al. teach a synthetic paper shelf liner as detailed above. The aforementioned prior art fails to explicitly teach the physical properties and thickness of the synthetic paper layer.

Shepherd, however, teaches a synthetic paper substrate that can be used for the purpose of providing an alternative to paper wherein durability and toughness are improved (Col. 1, lines 25-27) as well as demonstrating an improved printability over prior art synthetic papers (Col. 1, lines 37-47; Col. 2, lines 20-22). The synthetic paper comprises a polyolefin film base layer (Col. 2, lines 23-30). Depending on the desired end product, a pressure sensitive adhesive coating is applied to the surface of the base layer (Col. 4, lines 41-45). The thickness of the base layer is between 10 and 500 micrometers (Col. 3, line 6-8) wherein the film exhibits a tensile strength in the machine direction of 5203 pounds per square inch and 4842 pounds per square inch in the transverse direction (see Table 6). The base primarily comprises a copolymer of polyethylene (see Table 1) (note also that polyethylene and polypropylene are functionally equivalent as demonstrated by Aoki et al. (Col. 3, lines 14-20)). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to have combined the aforementioned prior art with Shepherd since each of the aforementioned references are analogous insofar as being directed at synthetic polymeric substrate layers – Shepherd providing

a comparative advantage over the aforementioned prior art insofar as providing a synthetic paper that is both durable and tough and comprises an improved printability.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicants invention was made to have modified the aforementioned prior art to include a synthetic paper substrate as taught by Shepherd in order to provide an alternative to paper wherein durability and toughness are improved as well as demonstrating an improved printability over the prior art synthetic papers.

5. Claims 2, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al. ('762) in view of Aoki et al. ('091), and further in view of Ito et al. (#4,623,587).

Friedland et al. and Aoki et al. teach a synthetic paper shelf liner as detailed above. The aforementioned prior art fails to teach the use of a tie coating between the synthetic paper and the layer of repositionable adhesive.

Ito et al., however, teach a multi-layered film material comprising an adhesive layer and a layer of polyethylene and polypropylene copolymers (see Abstract). The film further comprises a polyethyleneimine tie layer between the adhesive and polyolefin base layer for the purpose of increasing the strength of the adhesive bond to the base (Col. 8, lines 3-10). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to have combined the teachings of the aforementioned prior art along with Ito et al. since each of the prior art references are analogous insofar as being directed at bonding an adhesive layer in combination with a synthetic polymer layer.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicants invention was made to have modified the aforementioned prior art by adding a tie

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layer between the base and adhesive layer as taught by Ito et al. in order to increase the strength of the adhesive bond to the base.

Response to Arguments

6. Applicant's arguments, see remarks filed 2/13/04, with respect to claims 1-2 and 4-17 have been fully considered and are persuasive. The Examiner agrees that there is a clear distinction between silica and silicone. The 35 U.S.C. 103(a) rejection of claims 1-17 over Sackoff et al. (#4,151,319), Fagan (#4,783,354), Shepherd (#6,025,058), and Aoki et al. (#3,808,091) (and further in view of Ito et al. (#4,623,587) and Warp (#4,947,999)) has been withdrawn. The Examiner directs the Applicant to the new grounds of rejection above.

Conclusion

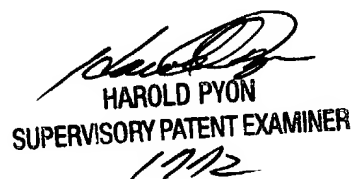
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Egan whose telephone number is 571-272-1491. The examiner can normally be reached on M-F, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BPE 4/8/04


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

4/12/04